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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/550,107      | 04/14/2000  | Philippe Verwaerde   | B0192/7013(ERP)     | 8463             |

7590 03/21/2003

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EXAMINER

WHITEMAN, BRIAN A

ART UNIT

PAPER NUMBER

1635

DATE MAILED: 03/21/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/550,107

Applicant(s)

VERWAERDE ET AL.

Examiner

Brian Whiteman

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 38-43 and 187-213 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38,40,41,187-208,210 and 211 is/are allowed.
- 6) ☒ Claim(s) 39,42,43,209,212 and 213 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 09 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### **Non-Final Rejection**

Claims 38-43 and 187-213 are pending examination.

Applicants' traversal, the cancellation of claims 1-37, 45-50, 63-73, 88-90, 98-100, and 102-186, the amendment to claims 38-41 and 211 in paper no. 16 is acknowledged and considered.

Upon further consideration, claims 39, 42, 209, 212, and 213 are not in condition for allowance because a 112 second paragraph is required for these claims.

### ***Specification***

The disclosure is objected to because of the following informalities: the heading for each section of the specification is missing.

Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.

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- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 39, 42, 43, 209, 212, and 213 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "the concentration of water soluble polymer in the liquid medium is 0.3%" in claims 39 and 209 is a relative term, which renders the claims indefinite. The term "the concentration of water soluble polymer in the liquid medium is 0.3%" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and

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one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

The disclosure does not define the unit (e.g., w/v, v/v) for 0.3% percent.

Applicants' arguments are moot in view of the new grounds of rejection.

The term "the concentration of water soluble polymer in the liquid medium is from 0.01% to 10%" in claims 42 and 212 is a relative term, which renders the claims indefinite. The term "the concentration of water soluble polymer in the liquid medium is from 0.01% to 10%" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The disclosure does not define the unit (e.g., w/v, v/v) for 0.01% to 10% percent.

Applicants' arguments are moot in view of the new grounds of rejection.

The term "the concentration of water soluble polymer in the liquid medium is 0.1%" in claims 43 and 213 is a relative term, which renders the claims indefinite. The term "the concentration of water soluble polymer in the liquid medium is 0.1%" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The disclosure does not define the unit (e.g., w/v, v/v) for 0.1% percent.

Applicants' arguments are moot in view of the new grounds of rejection.

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Applicant's arguments, see page 3, filed 1/9/03, with respect to the 102(e) rejection have been fully considered and are persuasive. The rejection of claims 1, 8-12, 17-18, 23, and 27-30 has been withdrawn.

Applicant's arguments, see page 4, filed 1/9/03, with respect to the 103(a) rejection have been fully considered and are persuasive. The rejection of claims 1, 10, 12, 13 19, 20, 23-26, 36-37 has been withdrawn.

Applicant's arguments, see page 4, filed 1/9/03, with respect to the provisional double patenting rejection have been fully considered and are persuasive. The rejection of claim 1 has been withdrawn.

### ***Conclusion***

Claims 38, 40, 41, 187-208, and 210-211 are free of the prior art and in condition for allowance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Whiteman whose telephone number is (703) 305-0775. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00 (Eastern Standard Time), with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John L. LeGuyader, SPE - Art Unit 1635, can be reached at (703) 308-0447.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Crystal

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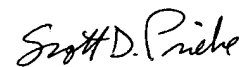
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Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center number is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Brian Whiteman  
Patent Examiner, Group 1635



**SCOTT D. PRIEBE, PH.D**  
**PRIMARY EXAMINER**